

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

LATWAHN MCELROY,

Plaintiff,

v.

CASTRO, et al.,

Defendants.

1:23-cv-00559 JLT SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING THE
ACTION WITHOUT PREJUDICE, AND
DIRECTING THE CLERK OF COURT TO
TERMINATE PENDING MOTIONS AND TO
CLOSE THE CASE

(Doc. 13)

Plaintiff seeks to hold the defendants liable for civil rights violations pursuant to 42 U.S.C. § 1983. On June 20, 2023, the Court denied Plaintiff's application to proceed *in forma pauperis* and directed him to pay the filing fee within 30 days. (Doc. 12.) After Plaintiff failed to pay the filing fee, the magistrate judge recommended the action be dismissed. (Doc. 13.)

Plaintiff filed objections to the Findings and Recommendations. (Doc. 21.) Importantly, however, Plaintiff has not paid the filing fee in this action though he has been granted over four months to do so. As the Court previously determined, Plaintiff is subject to the three-strikes bar imposed by 28 U.S.C. § 1915(g), and the allegations in the complaint do not satisfy the "imminent danger of serious physical injury" exception to Section 1915(g). (*See* Doc. 12.) Because Plaintiff has not paid the filing fee, the action cannot proceed at this time.

According to 28 U.S.C. § 636(b)(1)(C), this Court performed a de novo review of this case. Having carefully reviewed the matter, including Plaintiff's objections, the Court concludes

1 the Findings and Recommendations are supported by the record and proper analysis.

2 Accordingly, the Court **ORDERS**:

- 3 1. The Findings and Recommendations issued on July 25, 2023 (Doc. 13) are
4 **ADOPTED** in full.
- 5 2. This action is **DISMISSED** without prejudice for Plaintiff's failure to obey court
6 orders and to pay the filing fee.
- 7 3. The Clerk of Court is directed to terminate all pending motions and close this case.

8
9 IT IS SO ORDERED.

10 Dated: **November 7, 2023**


UNITED STATES DISTRICT JUDGE